



# Housing (Financial Provisions) (Scotland) Act 1972

## 1972 CHAPTER 46

### PART II

#### RENT REBATES AND RENT ALLOWANCES

##### 15 Rent rebates

- (1) It shall be the duty of every local authority to bring into operation not later than 1st October 1972 a scheme for granting to persons who occupy as their homes houses to which the local authority's housing revenue account relates and which are let to them by the local authority rebates from rent, calculated in accordance with the provisions of the scheme by reference to their needs and their resources.
- (2) A scheme under this section is referred to in this Act as a "rebate scheme".
- (3) No rebate from the rent of a house shall be granted by virtue of this section to any person if a substantial proportion of the charges in respect of the house is attributable to the use of furniture.
- (4) This section shall apply to a development corporation or the Scottish Special Housing Association as it applies to a local authority, except that in subsection (1) for the reference to houses to which the local authority's housing revenue account relates there shall be substituted a reference to development corporation houses or, as the case may be, Scottish Special Housing Association houses.

##### 16 Rent allowances

- (1) It shall be the duty of every local authority to bring into operation not later than 1st January 1973 a scheme for granting to private tenants who occupy as their homes houses in the authority's district allowances, calculated in accordance with the provisions of the scheme by reference to their needs and their resources, towards the rent payable under their tenancies.

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- (2) A scheme under this section is referred to in this Act as an " allowance scheme ".
- (3) In this Part of this Act " private tenant" means a person who is a protected tenant or a statutory tenant for the purposes of the Act of 1971 (including a person who is a tenant of accommodation which is deemed to be a dwelling-house let on a protected tenancy or subject to a statutory tenancy under section 119(1) of that Act).
- (4) A person is also a private tenant if he occupies a house let to him by—
  - (a) a joint board or joint committee as respectively defined by the Local Government (Scotland) Act 1947, or the common good of a burgh or any trust under the control of a local authority as defined in that Act,
  - (b) the Housing Corporation,
  - (c) a housing association,
  - (d) a housing trust within the meaning of section 5 of the Act of 1971 or any authorised society within the meaning of the Housing Act 1914,
 under a tenancy which would be a protected tenancy but for the said section 5.
- (5) A person is also a private tenant if he occupies a house let to him by the Crown Estate Commissioners and his tenancy would be a protected tenancy but for section 4 of the Act of 1971.
- (6) A local authority shall treat as if he were a private tenant any person who occupies a house let by them other than a house to which the housing revenue account relates and who would be entitled to a rebate if he occupied a house to which the housing revenue account relates.

## 17     **The model schemes**

- (1) Subject to the provisions of this Act, every rebate scheme and every allowance scheme shall conform with the provisions of Schedule 2 and Schedule 3 to this Act.
- (2) Regulations made by the Secretary of State with the consent of the Treasury may from time to time vary the provisions of Schedule 2 and Schedule 3 to this Act.
- (3) Before making regulations under subsection (2) above the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable.
- (4) Regulations under subsection (2) above shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this Act, the " model scheme" of an authority means a rebate scheme, or, as the case may be, an allowance scheme containing such provisions, and only such provisions, as the authority are for the time being required by this section to include in their scheme:
 

Provided that if and so long as the authority's scheme contains any provision included in pursuance of paragraph 16 of Schedule 2 to this Act, the model scheme shall be assumed to include that provision.
- (6) In this Act an authority's "standard amount of rent rebates " for any period beginning on or after 1 October 1972, or " standard amount of rent allowances" for any period beginning on or after 1 January 1973, means—
  - (a) if the authority have been operating the model scheme for that period, the amount of rebates or, as the case may be, allowances which they have granted

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for that period otherwise than under subsection (1) or (2) of section 18 of this Act;

- (b) if the authority have not been operating the model scheme for that period, the amount of rebates or, as the case may be, allowances, which they would have granted for that period otherwise than under subsection (1) or (2) of section 18 of this Act if they had been operating it.
- (7) The said standard amount shall be calculated or estimated by reference to the rebates or allowances actually granted by following such methods and principles as the Secretary of State may direct, either generally or in any particular case.

## **18 Extent to which authorities may depart from model schemes**

- (1) A housing authority may grant to a person to whom their rebate scheme applies a rebate of a greater amount than they would otherwise grant if they consider that his personal or domestic circumstances are exceptional.
- (2) A local authority may grant to a person to whom their allowance scheme applies an allowance of a greater amount than they would otherwise grant if they consider that his personal or domestic circumstances are exceptional.
- (3) A housing authority may, subject to the consent of the Secretary of State, vary the provisions of Schedule 2 to this Act as they apply in relation to their rebate scheme, but no variation under this subsection shall be such that a person to whom the scheme applies receives less rebate than he would have received under the model scheme, and if a variation is made in a rebate scheme by a local authority, they shall make a variation in their allowance scheme which appears to them to correspond to it.
- (4) A local authority may, subject to the consent of the Secretary of State, vary the provisions of Schedule 2 to this Act as they apply in relation to their allowance scheme, but no variation under this subsection shall be such that a person to whom the scheme applies receives a smaller allowance than he would have received under the model scheme, and if a variation is made in an allowance scheme the authority making it shall make a variation in their rebate scheme which appears to them to correspond to it.
- (5) Without prejudice to the generality of subsections (3) and (4) above, an authority may, subject to the consent of the Secretary of State, vary the provisions of Schedule 2 to this Act so that in ascertaining the weekly income of the tenant and his spouse there is a total disregard of war disablement pension and special widow's pension.
- (6) The powers conferred by this section shall not be exercised by any authority in such a way that, on the best estimate which they can make, they are likely as a result to grant a greater amount of rebates or allowances than 110 per cent. of the authority's standard amount of rent rebates or, as the case may be, their standard amount of rent allowances for any year or part of a year.
- (7) The Secretary of State may give his consent under subsection (3) or (4) above either generally or in any particular case subject to such conditions as he may require.

## **19 Duty of housing authorities to publicise schemes**

- (1) It shall be the duty of every housing authority to give such publicity to their rebate scheme as the Secretary of State may direct, either generally or in any particular case.

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- (2) It shall be the duty of every local authority to give such publicity to their allowance scheme as the Secretary of State may direct, either generally or in any particular case, and to furnish to a private tenant of a house in their district or to a landlord of such a tenant, free of charge, on an application made by the tenant or landlord, such information about their allowance scheme and in such form as the Secretary of State may direct.

## **20 Duty of landlord to inform tenant of particulars of allowance scheme**

- (1) It shall be the duty of a landlord of a house let to a private tenant—
- (a) to apply to the local authority in whose district the house is situated for information about the allowance scheme made by them, and
  - (b) on receipt of that information, to furnish it to the tenant.
- (2) The duty imposed on a landlord by subsection (1) above shall be performed in accordance with regulations made by statutory instrument by the Secretary of State, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any landlord who refuses or wilfully neglects to perform a duty imposed on him by subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.
- (4) Where an offence under subsection (3) above which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the body corporate, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Where the affairs of a body corporate are managed by its members this subsection shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (5) Subsections (3) and (4) above do not apply to the Housing Corporation.

## **21 Certain items included in rent to be excluded in calculating allowance**

- (1) Where a private tenant's rent includes amounts payable—
- (a) in respect of rates, or
  - (b) for the use of furniture or for services (not being such a service as would fall within a direction made by the Secretary of State under section 32(1)(b) of this Act applying to the local authority's district in which the private tenant resides, if the service were provided under the terms of the tenancy of a house to which a local authority's housing revenue account relates), or
  - (c) for the use of part of the premises comprised in a dwelling-house as a shop or office or for business, trade or professional purposes,
- then none of those amounts shall be treated for the purposes of this Part of this Act as rent.
- (2) Any question whether a private tenant's rent includes any sum payable in respect of or for any of the items referred to in paragraphs (a), (b) and (c) of subsection (1) above, or as to the amount so payable, shall, subject to paragraph 14 of Schedule 3 to this Act,

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be determined for the purposes of an allowance scheme by the authority who made the scheme.

- (3) In this section " rates" means any charge payable in respect of a rate as defined in the Local Government (Scotland) Act 1947.

## 22 Interpretation of Part II

- (1) In this Part of this Act, unless the context otherwise requires—

" allowance " means an allowance under an allowance scheme;

" allowance period " means a period for which an allowance is or may be granted ;

" allowance scheme " has the meaning assigned to it by section 16 of this Act;

" authority " means, in relation to a rebate scheme, a housing authority, and in relation to an allowance scheme, a local authority ;

" landlord " includes any person from time to time deriving title under the original landlord and also includes, in relation to any house, any person other than the tenant who is, or but for Part II of the Act of 1971 would be, entitled to possession of the house;

" pensionable age " has the meaning assigned to it by section 114(1) of the National Insurance Act 1965;

" private tenant " has the meaning assigned to it by section 16 of this Act;

" rebate " means a rebate under a rebate scheme ;

" rebate period " means a period for which a rebate is or may be granted;

" rebate scheme " has the meaning assigned to it by section 15 of this Act;

" rent " means, in relation to a private tenant, the rent payable under his tenancy less any rent receivable from sub-letting any part of the house and, in relation to a tenant of a housing authority, means standard rent less any rent receivable from sub-letting any part of the house;

" supplementary benefit " means benefit under Part II of the Ministry of Social Security Act 1966 except that it does not include benefit under section 6 (benefit to meet medical and similar requirements) or section 7 (benefit to meet exceptional requirements) of that Act;

" tenant " means, in relation to a rebate scheme, a person who occupies a house as mentioned in section 15 of this Act and, in relation to an allowance scheme, a person who is a private tenant, or who is treated as a private tenant under section 16 of this Act, and includes a joint-tenant and a sub-tenant, and " tenancy " shall be construed accordingly.

- (2) In construing any reference in this Part of this Act to the amount of rebates or allowances granted by an authority account shall be taken of sub-paragraphs (5) and (6) of paragraph 18 of Schedule 3 to this Act.